

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RAUL ESCARCEGA,
Petitioner,

v.

BEN CURRY, warden,
Respondent.

No. C 06-3693 SI (pr)

**ORDER DENYING CERTIFICATE
OF APPEALABILITY**

Petitioner has filed a notice of appeal from the order denying his petition for writ of habeas corpus that challenged a parole denial decision. The court earlier dismissed his request for a certificate of appealability as unnecessary under then-controlling Ninth Circuit authority. Later, the law changed. Under the recent decision of Hayward v. Marshall, 603 F.3d 546, 554 (9th Cir. 2010), a petitioner must obtain a certificate of appealability to appeal such a decision. The order dismissing the request for a certificate of appealability as unnecessary (docket # 19) is VACATED and replaced with this order.

A certificate of appealability will not issue because petitioner has not made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This is not a case in which "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

IT IS SO ORDERED.

DATED: June 16, 2010


SUSAN ILLSTON
United States District Judge